

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, November 3, 1997

DIVISION THREE

A063172--Dorene L. Musilli v. Alioto & Alioto et al.

By The Court: The petition for rehearing is denied. Phelan, P.J.

A076161--The People v. Jerome Wingo.

The judgment and sentence are affirmed. Walker, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

A076371--John E. DeVincenzi, Sr. et al. v. Robert Richter et al.

The judgment is affirmed. Respondents shall recover their costs on appeal. Parrilli, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

DIVISION FOUR

A077438--The People v. Earl Exauer Godhigh.

There are no meritorious issues to be argued. The judgment is affirmed. Hanlon, J. We concur: Pochè, Acting P.J., Reardon, J. (Not for Publication.)

Monday, November 3, 1997 (continued)

DIVISION FIVE

A074278--Friends of the Old Trees v. California Department of Forestry and Fire Protection; Bruce L. Van Alstyne.

The award of attorney fees is reversed. The matter is remanded to the superior court with directions to apportion the award between the Department and Van Alstyne according to their respective liability therefor, in accordance with the views expressed herein. The parties to bear their own costs on appeal. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

A076559--Life Partners, Inc., et al. v. Chuck Quackenbush, as Commissioner, etc.

We affirm the trial court's denial of Life Partners' request for a preliminary injunction. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, November 4, 1997

DIVISION ONE

A078154--Susan Hauck, et al. v. John Cady; Charles F. Hansen, Sr., et al.

By The Court: Respondents' objections to appellant's appendix is overruled without prejudice to a request for sanctions submitted in compliance with rule 26(e) of the California Rules of Court. Strankman, P.J.

DIVISION TWO

A074993--The People v. Anthony Claude Sorrell.

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

A075345--Gerald Grahn et al. v. Tosco Corporation.

Based on the foregoing, the judgment is reversed. Costs are awarded to Tosco as the prevailing party. (Cal. Rules of Court, rule 26.) Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Certified for Publication.)

Tuesday, November 4, 1997 (continued)

DIVISION THREE

A075743--California Automobile Assigned Risk Plan v. National Surety Corporation.

Order Modifying Opinion and Denying Rehearing; By The Court: It is ordered that the opinion filed herein on October 10, 1997, be modified as follows: (See Order) The petition for rehearing is denied. There is no change in judgment . Phelan, P.J.

DIVISION FOUR

A076402--The People v. Michael Paul Montenegro.

The judgment is reversed and the matter is remanded to the trial court with directions to conduct a new *Wheeler* hearing. At the hearing, the prosecuting attorney will be afforded the opportunity to explain the basis for his peremptory challenges of Terrence D. and Huey F. If, after the hearing, the court is satisfied with the explanation and denies the *Wheeler* motion, the judgment of conviction shall be reinstated. If, however, the trial court grants the *Wheeler* motion, appellant shall be given a new trial. (See *People v. Rodriguez, supra*, 50 Cal.App.4th at p. 1037; *People v. Tapia, supra*, 25 Cal.App.4th at p. 1033.) Reardon, J. We concur: Pochè, Acting P.J., Hanlon, J. (Not for Publication.)

MINUTES

COURT OF APPEAL STATE OF CALIFORNIA FIRST APPELLATE DISTRICT

DIVISION FOUR

Tuesday, November 4, 1997

Court convened at 9:30 a.m. in its courtroom at 303 Second Street, South Tower, Fourth Floor, San Francisco, California. Present: Poche, Acting P.J., Reardon, J., Hanlon, J. and Channing Hoo, Deputy Clerk.

A074250	People v. Jerre Wayne Allen Appellant waived oral argument before the hearing.
A076518	William J. Ziegler et al. v. Bank of San Francisco Cause called and argued by Diane Gibson, counsel for appellant Bank, and by Douglas A. Applegate, counsel for respondents. Cause ordered submitted.
A076631	California Court Reporters Association, Inc. et al. v. Judicial Council of California et al. Cause called and argued by Michael A. Rahn and William Alsup, counsel for appellants/cross-respondents Council, and by Scott Kronland, counsel for respondents/cross-appellants. Cause ordered submitted.
A074678	Emory Speck et al.
A075078	v.
A075707	James E. O'Conner et al. Causes called and argued by Richard E. McGreevy, counsel for appellants O'Conner et al., and by Steve Winick, counsel for respondents. Causes ordered submitted.

At this point, the court reconstituted itself to include Reardon, Acting P.J., Hanlon, J. and Saldamando, J. (by assignment from the superior court).

A078057 David W. Morris et al.
v.
Superior Court, Sonoma County
Telesite Corp. et al.
Cause called and argued by Dennis J. Byrne, counsel for petitioners, and by Thomas Brigham, counsel for real parties in interest. Cause ordered submitted.
The court recessed at 11:33 a.m.

A075200 The court reconvened at 2:00 p.m. Present: Poche, Acting P.J., Reardon, J., Hanlon, J. and Channing Hoo, Deputy Clerk.
Doyaline E. Marchbanks
v.
Fidelity National Title Insurance Co.
Cause called and argued by Jon Eisenberg, counsel for appellant Fidelity, and by Paul Halvonik, counsel for respondent. Cause ordered submitted.

A076034 Enterprise Rent A Car Co. of San Francisco
v.
Workmen's Automobile Insurance Co.
Cause called and argued by James L. English and Robert D. Brugge, counsel for appellant Workmen's, and by John M. Boyko and Chris P. Lavdiotis, counsel for respondent. Cause ordered submitted.

A073690 Greg Lerigo et al.
v.
Novato Cable Co.
Cause called and argued by Maximilian Hopkins, counsel for appellants Lerigo et al., and by David Robertson, counsel for respondent. Cause ordered submitted.

A071903 People
v.
Jack Witherington Simonton
Cause called and argued by Francia Welker (through telecon), counsel for appellant Simonton, and by Ross Moody, counsel for respondent. Cause ordered submitted.
The court adjourned at 3:38 p.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, November 5, 1997

DIVISION TWO

A074510--Estate of Elsie N. Gridley, Arnold S. Gridley v. Michael A. Gridley.

The April 23, 1996, order of the probate court is affirmed. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

A075437--The People v. Dwight Dwayne Dominque.

The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A076791--In re Antonio P., The People v. Antonio P.

We find no abuse of discretion. The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A080519--Truck Insurance Exchange v The Superior Court of Marin County, Tiberio Lizza R.P.I.

By The Court: The petition for writ of mandate/stay is denied. Kline, P.J.

Wednesday, November 5, 1997 (continued)

DIVISION THREE

A075625--The People v. Vernon Joseph.

The judgment is affirmed. Parrilli, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

A077488--Christina Roberts et al. v. City of Fairfield et al.

The judgment is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

DIVISION FIVE

A080490--Peter J. Coscarart, et al v. Alameda County Superior Court, Major League Baseball, et. al. R.P.I.

By The Court: The above entitled appeal is transferred from Division Two to Division Five of this court. The related appeal having been previously assigned to Division Five, requires by this court's Internal Operating Practices and Procedures, Section 21(b), to transfer this case to Division One. This order is made pursuant to Rule 20(b)(1) of the California Rules of Court. Strankman, A.P.J.

MINUTES
COURT OF APPEAL - STATE OF CALIFORNIA - FIRST APPELLATE DISTRICT
DIVISION ONE

Wednesday, November 5, 1997

Court convened at 9:00 a.m. in its Courtroom, at Marathon Plaza,
303 Second Street, 4th Floor, San Francisco, California

Present: Strankman,, P.J., Stein, J. and Dossee, J.
N. Millner, Deputy Clerk

A076929 Anchor Brewing Company, et al.,
 v.
 City & County of San Francisco.
Cause called and argued by Richard Harrington for appellant and
William Fleishhacker, Deputy City Attorney for respondent. Cause
ordered submitted.

A075814 Christopher Lane,
 v.
 Western Athletic Clubs, Inc., et al..
Cause called and argued by Laurence Wilson for appellant and Lisa
Satter for respondent. Cause ordered submitted.

At this point, Presiding Justice Strankman leaves the bench and
Justice Swager joins the bench for the remainder of the calendar.

A076879 Vernon Snyovec,
 v.
 William Thompson, et al.
Cause called and argued by Peter Chao for appellant and Armand
Estrada for respondent. Cause ordered submitted.

A075100 Department of Social Services,
 v.
 Carla B.
Cause called and argued by Julia TenEyck for appellant and Anthony
Scarr, Deputy County Counsel for respondent. Cause ordered
submitted.

A074362 Stagecoach Village, Inc.,
 v.
 Margie Handley.
 Cause called and argued by Theodore Kolb for appellant and
 Mukesh Advani for respondent for respondent. Cause ordered
 submitted.

A077758 David Crozier,
 v.
 Alana Crozier.
 Cause called and argued by Harry Styron for appellant, no
 appearance for respondent. Cause ordered submitted.
 Court recessed until 2:00 p.m.

MINUTES
COURT OF APPEAL - STATE OF CALIFORNIA - FIRST APPELLATE
DISTRICT
DIVISION ONE

Wednesday, November 5, 1997

Court convened at 2:00 p.m. in its Courtroom, at Marathon Plaza,
303 Second Street, 4th Floor, San Francisco, California

Present: Strankman, P.J., Stein, J. and Swager, J.
J. Bagoye, Deputy Clerk

- A078975 Central Parking System of California,
 v.
 City of Oakland.
Cause called and argued by Carter Stroud for appellant and John
Chapman for respondent. Cause ordered submitted.
- A076671 In re Emil J. Ekdahl on Habeas Corpus.
Cause called and argued by Bruce Slavin, Deputy Attorney General
for petitioner and Steven Fama for respondent. Cause ordered
submitted.

Oral argument having been deemed waived, the following cases are
ordered submitted:

A076529	People v. Mecchi
A075670	People v. Sumpter
A075991	People v. Sims
A076212	People v. Harris

Court Adjourned

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, November 6, 1997

DIVISION ONE

A076150--Jessie Murphy v. City of Vallejo.

By The Court: Appellant's request for continuance of oral argument from the November 1997 calendar is granted. The matter is continued to the January 1998 calendar, a date and time to be advised.

Counsel for appellant is directed to inform this Court, in writing, as to the status of settlement and or file a request for abandonment on or before January 5, 1998.
Strankman, P.J.

DIVISION TWO

A075649--Alfred Watts v. Oakland Civil Service Board et al.

We affirm the judgment, and Watts is to pay costs. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

DIVISION THREE

A075266--Jubreal Rantisi v. Farmers Insurance Exchange.

The judgment of the trial court is affirmed. Costs are awarded to respondent. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

Thursday, November 6, 1997 (continued)

A075846--The People v. William Alfonso Breed.

Affirmed. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

A078367--The People v. Frederick Jeremy Areia.

We note, however, a slight miscalculation in the amount of custody credits awarded. Defendant received credit for 304 actual days and 152 conduct days, for a total of 456 credit days. He should have received credit for 305 actual days of custody, and we direct the correction of the abstract of judgment in this regard. His conduct credits are not affected by this correction. In all other respects, the judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

A078817--Lengner & Sons Produce Express v. The Superior Court of Alameda County, Homestead Insurance Company, Inc. R.P.I.

Let a peremptory writ of mandate issue directing the Alameda County Superior Court to vacate its order denying Lengner's request for a stay and to enter a new order granting the stay. Corrigan, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

DIVISION FOUR

A073739--Leonard Lothlen et al. v. Impossible Excavating and Engineering, Inc.

We affirm the judgment. Reardon, J. We concur: Pochè, Acting P.J., Hanlon, J. (Not for Publication.)

A077217--William R. Smith v. Sharon S. Shenk, as Trustee, etc.

The order is affirmed. Reardon, Acting P.J. We concur: Hanlon, J., Peterson, J.*
*Presiding Justice of the Court of Appeal, First District, Division Five, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

Thursday, November 6, 1997 (continued)

DIVISION FIVE

A072207--The People v. Tracy Jeffrey Guido, Henry Edward Frank, Ernesto William Gonzales.

A076694--In re Tracy Jeffrey Guido on Habeas Corpus.

A079067--In re Henry Edward Frank on Habeas Corpus.

A077254--In re Ernesto William Gonzales on Habeas Corpus.

The judgments are affirmed. The petitions for a writ of habeas corpus are denied. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

A075837--The People v. Mark Anthony Jones.

The judgment is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, November 7, 1997

DIVISION ONE

A078381--The People v. Thomas Irving Medford.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A078469--The People v. Caleb R. Pelletier.

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Dossee, J. (Not for Publication.)

DIVISION TWO

A074723--Karl Schoen et. al. v. California Department of Forestry & Fire Protection, Louisiana-Pacific Corporation, R.P.I.

The Court: It is ordered that the opinion filed on October 16, 1997, be modified in the following particulars: (See Order) The above modifications do not change the judgment. Kline, P.J. (Certified for Publication.)

A080070--Chris Mastoras v. City and County of San Francisco et al.

So, here, the summary judgment in favor of Pick Your Part resolved all the issues as to that party and was an appealable judgment. As appellant's notice of appeal was not filed within the time required by rule 2, the appeal from the judgment in favor of Pick Your Part must be dismissed. Kline, P.J. We concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Friday, November 7, 1997 (continued)

A076400--The People v. Raymond Bernard Moultry.

The judgment is affirmed. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

DIVISION FOUR

IN THE MATTER OF THE ASSIGNMENT OF THE HONORABLE J. CLINTON PETERSON TO SIT AS A JUSTICE OF THIS COURT.

By The Court: It is ordered that the assignment of the Honorable J. Clinton Peterson, Presiding Justice of the Court of Appeal, First Appellate District, Division Five, to sit as a Justice in Division Four, be spread upon the minutes in full. Pochè, Acting P.J.

IN THE MATTER OF THE ASSIGNMENT OF THE HONORABLE ALEX SALDAMANDO, TO SIT AS A JUSTICE OF THIS COURT.

By The Court: It is ordered that the assignment of the Honorable Alex Saldamando, Judge of the Superior Court, San Francisco County, to sit as a Justice in Division Four, be spread upon the minutes in full. Poche, Acting P.J.

A076034--Enterprise Rent-A-Car Company of San Francisco v. Workman's Auto Insurance Company.

The judgment is affirmed. Hanlon, J. We concur: Pochè, Acting P.J., Reardon, J. (Certified for Publication.)

A077653--The People v. Alberto Garcia Torres.

The judgment is modified to delete line 17 under section F providing for "Restitution \$1,425 at jointly and severally ea. month to the Prob. Dept. as directed." As modified the judgment is affirmed. The Clerk of the Sonoma County Superior Court is directed to prepare an amended abstract of judgment reflecting that modification and to forward a certified copy of the amended abstract to the Department of Corrections. Pochè, Acting P.J. We concur: Reardon, J., Hanlon, J. (Certified for Publication.)

Friday, November 7, 1997 (continued)

DIVISION FIVE

A076817--The People v. John Joseph Domitrovich.

The judgment of conviction and sentence are affirmed. Peterson, P.J. We concur:
Haning, J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, November 10, 1997

DIVISION ONE

A076529--The People v. Angelo William Mecchi.

The judgment is affirmed. The case is remanded for resentencing in accordance with the views expressed herein. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A076929--Anchor Brewing Company et al. v. City and County of San Francisco et al., Christian Barbe et al., R.P.I.

Portions of appellant's complaint are barred by the statute of limitations and Anchor's lack of standing. The balance of the complaint fails to state facts sufficient to constitute the causes of action pled. The judgment of the trial court is affirmed. Dossee, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

DIVISION FIVE

A076048--The People v. Michael Danielle Holloway.

We reverse the judgment as to counts 1 and 2 with instructions that, if the People do not move to retry Holloway within 60 days after the filing of the remittitur in the trial court pursuant to Penal Code section 1382, subdivision (a)(2), the trial court shall proceed as if the remittitur constituted a modification of the judgment to reflect a conviction for voluntary manslaughter and attempted voluntary manslaughter respectively, and the trial court shall resentence appellant accordingly. The remainder of the judgment is affirmed. We also remand the matter for resentencing on count 3 if necessary. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

Monday, November 10, 1997 (continued)

A077013--In re Maria G., a Minor.

The order terminating parental rights is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

A080457--Mathilde Oppenheim v. Golden Gateway Center, et al.

By The Court: Appellant may not appeal a dismissal she (through counsel) requested (*Hibernia Savings Etc. Soc. v. Waymire* (1907) 152 Cal. 286, 287-288) or denial of a motion to vacate the dismissal. She may not appeal denial of a motion to strike entry of the order where the prior order was not appealable. (*Title Ins. & Trust Co. v. Calif. Etc. Co.* (1911) 159 Cal. 484, 487) Appellant's remedies, if any, are against her attorney, whom she is presently suing in San Francisco Superior Court Action No. 985731, contractual arbitration ordered Aug. 5, 1997. Peterson, P.J.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, November 12, 1997

DIVISION ONE

A077967--In re Shawn C., a Person coming Under the Juvenile Court Law.

Appellant was represented by counsel at all stages of the proceedings. The court's findings at the jurisdictional and disposition hearings are supported by substantial evidence. There was no error in the disposition. There are no meritorious issues to be argued on appeal. Dossee, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

DIVISION TWO

A074746--The People v. Wayne Smith.

The cause is remanded for the court to decide whether to exercise its discretionary authority to strike the prior (*Romero, supra*, 13 Cal.4th 497, 530-531); the judgment is affirmed in all other respects (*Allen, supra*, 53 Cal.App.4th 1127, 1138). Lambden, J. I concur: Kline, P.J. See dissenting opinion of Haerle, J. (Certified for Publication).

A076022--Associated Builders and Contractors, Inc. et al. v. San Francisco Airports Commission, San Mateo County Building and Construction Trades Council, AFL-CIO, R.P.I.

The judgment of the trial court denying ABC's petition for mandamus and stay is affirmed. Costs on appeal are awarded to the Commission as the prevailing party. (Cal. Rules of Court, rule 26.) Ruvolo, J. We concur: Kline, P.J., Lambden, J. (Certified for Publication.)

Wednesday, November 12, 1997 (continued)

A078928--Stephen M. Williams v. The Superior Court of San Francisco County, Ashbourne Construction, et al., R.P.I.

By The Court: Respondent superior court having ruled on the petition for administrative mandamus in San Francisco Superior Court No. 987418, the temporary stay of the demolition of the building located at 2617 Sutter Street in San Francisco is lifted and the petition for writ of supersedeas is denied. Kline, P.J.

A080544--In re Colvin McCright, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Kline, P.J.

DIVISION THREE

A074015--Marie Rozier et al. v. Bellot Construction & Associates et al.

Finally, we hold that the application of section 1033 did not constitute an unconstitutional impairment of contract. Affirmed. Respondents are awarded their costs on appeal. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

DIVISION FOUR

A071903--The People v. Jack Witherington Simonton.

The judgment is affirmed. Pochè, Acting P.J. We concur: Reardon, J., Hanlon, J. (Not for Publication.)

Wednesday, November 12, 1997 (continued)

DIVISION FIVE

A075003--Mission Housing Development Company, et al. v. City and County of San Francisco.

The judgment is affirmed in part (with respect to tax years 1982-1983 through 1984-1985 and 1987-1988), reversed in part (with respect to tax years 1985-1986 and 1986-1987), and the matter remanded to the trial court for further proceedings consistent with the views expressed in this opinion. Costs to appellants. Jones, J. We concur: Peterson, P.J., Haning, J. (Certified for Publication.)

A079035--The People v. Corey Eugene Baker.

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE
WEDNESDAY, NOVEMBER 12, 1997

Court convened at 9:00 a.m. in its courtroom at Marathon Plaza, South Tower Fourth Floor, 303 Second Street, San Francisco., CA.
Present: Phelan P.J., Corrigan J., Parrilli J., and C. Turner, Deputy Clerk.

Justice Phelan announced that Justice Corrigan was not participating on the following case and Justice Walker was participating on the Jones v. Wells Fargo Bank case and would not be present. Counsel waived Justice Walker's presence.

A073486 Laverne H. Jones,
 v.
 Wells Fargo Bank NA et al.,
 Cause called and argued by Herber C. Laney Jr., counsel for respondent.
 Laverne Jones, appellant in pro per, did not appear. Cause ordered submitted.

Justice Phelan announced that he was not participating on the following case and Justice Walker was participating on Stuart v. Stuart and counsel Deronde waived Justice Walker's presence.

A075398 In re the Marriage of Stuart:
 Martha Lee Stuart,
 v.
 Terry L. Stuart,
 Cause called and argued by John Deronde, counsel for appellant, via tele-
 conference and Martha Lee Stuart, respondent in pro-per. Cause ordered
 submitted.

court adjourned

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, November 13, 1997

DIVISION ONE

A075814--Christopher T. Lane v. Western Athletic Clubs, Inc.

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Dossee, J. (Not for Publication.)

A076212--The People v. Lance Dondie Harris.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A076671--In re Emil J. Ekdahl, on Habeas Corpus.

The order is reversed. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

A079023--The People v. Tiffany Monette Blanchard.

The judgment is affirmed. Dossee, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

A079106--The People v. Julio Ayala Perez.

The order revoking probation and the judgment imposed are affirmed. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

Thursday, November 13, 1997 (continued)

DIVISION THREE

A072648--The People v. Hooshang Sohrab.

The judgment is reversed. Parrilli, J. We concur: Phelan, P.J., Corrigan, J.
(Certified for Publication.)

DIVISION FOUR

A073690--Greg Lerigo v. Novato Cable Company.

The judgment is affirmed. Lerigo to bear costs of appeal. Reardon, J. We concur:
Pochè, Acting P.J., Hanlon, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Thursday, November 13, 1997

Court met at 9:30 a.m. in its courtroom at 303 - 2nd Street,
Fourth Floor, San Francisco. Present: Kline, P. J., Haerle, J., Ruvolo, J.,
and S. Graham, Deputy Clerk.

A079992 Cynthia H.
v.
Superior Court, Contra Costa County
Dept. of Social Services.
Cause called and argued by G. Wright Morton, counsel for petitioner and
Janice Amenta-Jones, counsel for Real Party in Interest. Cause ordered
submitted.

A075677 University of Northern California
v.
Dr. Y. King Liu, etc.
Cause called and argued by Lawrence Townsend, counsel for appellant and
Mark Rice, counsel for respondent. Submission deferred. Counsel for
respondent granted 10 days to submit a letter brief and counsel for
appellant granted 10 days thereafter to respond. Letter briefs to be no
longer than 5 pages. Case will be deemed submitted upon the filing of
the last letter brief.

A071683 Rowena Wedeck
v.
Unocal Corp.
Cause called and argued by Timothy Thimesch, counsel for appellant
and Nicholas B. Kayhan, counsel for respondent. Cause ordered
submitted.

At this point in the proceedings, Justice Haerle left the bench and Justice
Lambden joined the bench.

A071717 James Kaliamos, et al.
v.
County of Humboldt
Cause called and argued by Thomas Becker, counsel for appellants
and William Bragg, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P. J., Haerle, J.,
Lambden, J., and S. Graham, Deputy Clerk.

A072910 As You Sow
v.
Cotter & Company
Cause called and argued by Jeffrey Margulies, counsel for appellant
and Clifford Chanler, counsel for respondent. Cause ordered submitted.

A074951 In re the Marriage of Keefe
DeAnn Keefe
v.
Terence Keefe
Cause called and argued by William Sneed, counsel for appellant and
Bernard Wolf, counsel for respondent. Submission deferred. Counsel
for respondent granted 5 days to file a declaration re: sanctions. Counsel
for appellant granted 5 days thereafter in which to file a response. Cause
will be deemed submitted upon the filing of appellant's response.

A076963 Barbara Piasecki
v.
City and County of San Francisco
Cause called and argued by Craig Morrison, counsel for appellant and
William F. Gutierrez, counsel for respondent. Cause ordered submitted.

Court recessed until Thursday, November 20, 1997 at 9:30 a.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, November 14, 1997

DIVISION ONE

A075214--Mark West Creek Preservation Association, et al. v. County of Sonoma, Shiloh Associates, et al., R.P.I.

Order Modifying Opinion; The Court: It is ordered that the opinion filed herein on October 15, 1997, be modified in the following particulars: (See Order) There is no change in the judgment. It is further ordered that the request for rehearing is denied. It is further ordered that the request for judicial notice is denied. It is further ordered that the request for partial publication is denied. It is further ordered that the request for clarification is denied. Strankman, P.J. (Not for Publication.)

A075991--The People v. Ricky Sims.

The judgment is affirmed. Swager, J. We concur: Stein, Acting P.J., Dossee, J. (Not for Publication.)

A078794--The People v. Harold Barefield.

The order revoking probation is affirmed. Stein, J. We concur: Strankman, P.J., Dossee, J. (Not for Publication.)

Friday, November 14, 1997 (continued)

DIVISION TWO

A071320--The People v. Jeffrey Dean Warner.

We reverse that portion of the judgment which found true the allegation under section 12022.1 and direct the trial court to strike this two-year enhancement and resentence appellant accordingly. In all other respects, the judgment is affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

DIVISION FOUR

**IN THE MATTER OF THE SELECTION OF AN ASSOCIATE JUSTICE
TO ACT AS PRESIDING JUSTICE.**

Pursuant to the provision of Article VI, Section 3 of the Constitution of the State of California, I hereby select Associate Justice Marcel B. Poche as Acting Presiding Justice to perform all of the functions of the Presiding Justice of Division Four when I am absent or unable to act, and the event that we are both absent or unable to act, I hereby select Associate Timothy A. Reardon, as Acting Presiding Justice of Division Four, and in the event Associate Justice Reardon is also absent or unable to act, then I hereby select Associate Justice William R. McGuiness as Acting Presiding Justice to perform all of the functions of the Presiding Justice of Division Four. Daniel M. Hanlon, Presiding Justice.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, November 17, 1997

DIVISION ONE

A075100--In re Tyler Crystal R., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Swager, J. We concur: Stein, Acting P.J., Dossee, J. (Not for Publication.)

A077758--In re the Marriage of David and Alana Crozier.

The judgment is affirmed. Costs on appeal are awarded to respondent. Swager, J. We concur: Stein, Acting P.J., Dossee, J. (Not for Publication.)

A078975--Central Parking System of California, Inc., et al. v. Port of Oakland et al.

The appeal is dismissed. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

DIVISION TWO

A072759--Mark Winthers et al v. California Department of Forestry and Fire Protection.

The judgment is affirmed. Costs on appeal to respondent. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

Monday, November 17, 1997 (continued)

A079891--James Samuel Kor, Jr. v. The Superior Court of Marin County, The People of the State of California, R.P.I.

By The Court: The petition for writ of prohibition/mandate/stay is denied. Kline, P.J.

A079992--In re Joshua H. et al., Persons Coming Under the Juvenile Court Law.

The petition for extraordinary relief is denied on the merits. (See Cal. Const., art VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888.) Petitioner is barred in any subsequent appeal from making further challenges to the order terminating reunification services and setting a hearing under section 366.26. (See § 366.26, subd. (1)(2).) Since the permanency planning hearing is set for November 19, 1997, this opinion is final as to this court forthwith. (Rule 24(d).) Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A080537--Ernest Slye, III v. Workers Compensation Appeals Board, Contra Costa County et al.

The Court: The petition for writ of review filed on November 4, 1997, is dismissed as untimely filed. (Lab Code, § 5950; *Camper v. Workers' Comp. Appeals Bd.* (1992) 3 Cal.4th 679, 684-688.) Kline, P.J.

A080571--Harry Johnson v. The Superior Court of San Mateo, The People of the State of California, R.P.I.

By The Court: The petition for writ of prohibition is denied without prejudice to the filing of a petition in compliance with *Sherwood v. Superior Court* (1979) 24 Cal.3d. 183 and California Rules of Court, rule 56, subdivision (c). Kline, P.J.

A080632--In re Frederick C. Reed, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. (See *People v. Daniels* (1996) 51 Cal.App.4th 520) Kline, P.J.

Monday, November 17, 1997 (continued)

A080633--In re John Paul Robles, on Habeas Corpus.

The petition for writ of habeas corpus is denied. Kline, P.J.

DIVISION THREE

A075319--Leticia Contreras v. Mark Anderson.

For all the forgoing reasons, the summary judgment is affirmed. The parties shall bear their own costs. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Certified for Publication.)

A079780--Robin K., v. The Superior Court of Contra Costa County, Contra Costa County Social Service Department, R.P.I.

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.)

The section 366.26 hearing is set for November 18, 1997. Therefore our decision is final in this court immediately. Corrigan, Act. P.J. We concur: Parrilli, J., Walker, J.

DIVISION FOUR

A074250--The People v. Jerre Wayne Allen

A076748--In re Jerre Wayne Allen, on Habeas Corpus.

The judgment is modified to order that appellant pay actual restitution to the victim's family members in the amount of \$1,468.90 and to pay a restitution fine in the amount of \$8,531.10. As so modified, the judgment is affirmed. The trial court is directed to prepare and forward an amended abstract of judgment reflecting this modification to the Department of Corrections. The petition for habeas corpus is denied. Hanlon, J. We concur: Pochè, Acting P.J., Reardon, J. (Not for Publication.)

Monday, November 17, 1997 (continued)

A074602--Peter G. Stamison, as Chairman of State Board of Control, etc. v. Anne Michaels et al.

The order for sanctions is vacated; in all other respects, the judgment is affirmed. Pochè, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A075078, A074678, A075707--Emory Speck et al. v. National Cab Company et al.

The purported appeal from the entitlement order (see fn. 4, *ante*) is dismissed. The “Order Awarding Attorneys’ Fees” and the two supplemental orders are affirmed. The parties shall bear their respective costs on these appeals. Following the filing of our remittitur, the trial court may, upon appropriate motion by plaintiffs, make an award of attorneys’ fees reasonably incurred by plaintiffs’ in responding to defendants’ appeal. Such award shall not include fees for plaintiffs’ appeal. Pochè, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A076518--William J. Ziegler et al. v. Bank of San Francisco.

The judgment is modified to state that cross-complainants are entitled to recover damages of one dollar and costs of \$235. As so modified, the judgment is affirmed. Cross-complainants shall recover their costs of appeal. Pochè, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A077787--The People v. David Moreno.

Judgment affirmed. Reardon, J. We concur: Hanlon, P.J., Pochè, J. (Not for Publication.)

DIVISION FIVE

A077783--The People v. Johnnie Lanere Davis.

The judgment is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

A078783--The People v. William Nuss Hubbard.

The judgment is affirmed. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, November 18, 1997

DIVISION ONE

A072987--The People v. Peter J. Ortiz et al.

Order Modifying Opinion and Denying Rehearing; By The Court: It is ordered that the unpublished opinion filed on September 22, 1997, and modified on October 21, 1997, is modified as follows: (See Order) In all other respects the opinion remains the same. This modification does not effect a change in judgment. The petition for rehearing is denied. Strankman, P.J.

A075670--The People v. Jason L. Sumpter.

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

DIVISION TWO

A076064--The People v. Alejandro Ramirez Luna

A078442--In re Alejandro Ramirez Luna on Habeas Corpus.

The judgment on the appeal (A076064) is affirmed. The petition for writ of habeas corpus (A078442) is denied. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A080672--In re Larry D. Thomas, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Kline, P.J.

Tuesday, November 18, 1997 (continued)

DIVISION THREE

A073486--Laverne N. Jones v. Wells Fargo Bank, N.A., et al.

The dismissal for failure to post security, entered January 5, 1996, is reversed. Appellant to recover costs on appeal. Walker, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

A073629 & A074308--D. A. Fernandes et al. v. First Indo-American Bank.

The judgment is affirmed, as is the order after judgment awarding attorney fees. The matter is remanded for a determination of appellate fees. The parties shall bear their own costs. Corrigan, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

A077286--Jack C. Runnion v. Workers' Compensation Appeals Board and Timec.

The Board's contempt award is annulled. The Board's sanctions are sustained. Each party is to bear his/its own costs in this proceeding. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Certified for Publication.)

A078601--The People v. Carl Eric Collier.

The judgment is affirmed. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

DIVISION FOUR

A075200--Doyaline Marchbanks v. Fidelity National Title Insurance Company.

The judgment and the order denying judgment notwithstanding the verdict are affirmed. Reardon, J. We concur: Hanlon, P.J., Pochè, J. (Not for Publication.)

A077430--In re Demarus B., a Person Coming Under the Juvenile Court Law.

To the extent that the appeal purports to challenge to the now-superseded reunification plan, the appeal is dismissed as moot. In all other respects, the disposition order is affirmed. Reardon, J. We concur: Hanlon, P.J., Pochè, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FOUR

Tuesday, November 18, 1997

Court convened at 9:30 a.m. in its courtroom at 303 Second Street, South Tower, Fourth Floor, San Francisco, California. Present: Hanlon, P.J., Poche, J., Reardon, J. and Channing Hoo, Deputy Clerk.

- A075989 Moahua Cai
 v.
 David Tsao et al.
 Cause called at 9:30, as calendared. Charles Murray, counsel for appellant Cai., was present. No appearance on behalf of the respondents. Cause continued momentarily to allow extra time for respondent's counsel to appear.
- A077021 Frederick Hoff et al.
 v.
 Vacaville Unified School District et al.
 Cause called and argued by Bryan Hansen, counsel for appellants Hoff et al., and by Marjorie Manning, counsel for respondents. Cause ordered submitted.
- A075989 Moahua Cai
 v.
 David Tsao et al.
 Cause re-called at 9:45 and argued by Charles Murray, who requested oral argument and is counsel for appellant Cai. No appearance on behalf of the respondents. Cause ordered submitted.
- A077152 Kenneth Grigsby
 v.
 Bay Area Rapid Transit District
 Appellant waived oral argument before the hearing.

A076992 California National Bank
v.
Pacific International Properties, Inc.
Cause called and argued by Arnold S. Rosenberg, counsel for appellant Bank, and by Andrew Leff, counsel for respondent. Cause ordered submitted.

A078008 Elizabeth Shaughnessy
v.
National Benevolent Association of the Christian Church
Cause called and argued by Jeffrey Perkins, counsel for appellant Shaughnessy, and by John B. McMorrow, counsel for respondent. Cause ordered submitted.
The court recessed at 11:38 a.m.

A077498 The court reconvened at 2:30 p.m. Present: Hanlon, P.J., Poche, J., Reardon, J. and Channing Hoo, Deputy Clerk.
Kenneth J. Corcoran
v.
Contra Costa County Employees Retirement Board et al.
Cause called and argued by Joseph L. Wyatt, Jr., counsel for appellants Board et al., and by Gregory L. McCoy, counsel for respondent. Cause ordered submitted.

A074440 People
v.
Carl Wayne Anderson
Cause called and argued by Michael Satris, counsel for appellant Anderson, and by Eric Share, counsel for respondent. Cause ordered submitted.
The court adjourned at 3:30 p.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, November 19, 1997

DIVISION ONE

A076016--Patricia McColm v. Carter Hawley-Hale, Inc., et al.

By The Court: Appellant's request for reinstatement of the above -entitled appeal is granted. The Clerk is directed to file the civil Docketing Statement, submitted by appellant, forthwith.

The appellant's Opening Brief is due within 30 days of the date of this order.
Strankman, P.J.

DIVISION TWO

A068031--Antonio M. Garcia v. Vivek Hejmadi et al.

Order Modifying Opinion Without Change In The Judgment, And Denying Rehearing; The Court: It is ordered that the opinion filed herein on October 20, 1997, be modified in the following particulars: (See Order) The petition for rehearing is denied.
Kline, P.J.

A073882, A074529--Virginia M. Marques v. Bank of America, NT & SA.

Summary judgment is affirmed as to the sixth and seventh (contract) causes of action (see *ante*, fn. 1). In all other respects, the judgment is reversed, and the cause remanded to the trial court for further proceedings in accordance with this opinion. The postjudgment order is affirmed as to denial of the motion for sanctions, but the trial court is directed to vacate the order insofar as it confirms the award of costs to the Bank as prevailing party. Marques is awarded her costs on appeal. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Certified for Publication.)

Wednesday, November 19, 1997 (continued)

A074718--Carl Clinton Snyder v. United State Fidelity & Guaranty Co., et al.

By The Court: The petition for rehearing is granted. Kline, P.J.

A075139--The People v. Wayne Douglas Benson.

By The Court: The petition for rehearing is denied. Kline, P.J.

A075528--The People v. Gary Allen Bales.

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A076593--Arthur Mitchell v. Asbestos Corporation, Ltd.

The second action, *Mitchell II*, was time-barred (§ 340.2), and the court lacked personal jurisdiction over ACL in the consolidated but unserved first action, *Mitchell I*. Accordingly, the judgment is reversed. Lambden, J. We concur: Kline, P.J., Haerle, J. (Certified for Publication.)

DIVISION THREE

A076774--System 99 Minority Shareholders v. Viking Freight Lines, Inc.

We affirm the judgment of the trial court and award costs on appeal to Viking. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

DIVISION FOUR

A075825--The People v. John Edward Hansen.

The judgment is affirmed. Reardon, J. We concur: Hanlon, P.J., Saldamando, J.*

*Judge of the Superior Court, City and County of San Francisco, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Certified for Partial Publication.)

Wednesday, November 19, 1997 (continued)

A077152--Kenneth L. Grigsby v. Bay Area Rapid Transit District.

The judgment is affirmed. Reardon, J. We concur: Hanlon, P.J., Pochè, J. (Not for Publication.)

A079532--The People v. Brett Anthony Lay.

The order of probation is affirmed. Pochè, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

DIVISION FIVE

A077072--City and County of San Francisco v. Anthony Camphouse.

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FIVE

Thursday, November 19, 1997

Court convened at 9:30 a.m. in its Courtroom at 303 Second Street, South Tower, Fourth Floor, San Francisco, California. Present: Peterson, P.J.; Haning, J.; Jones, J.; and Mary P. Quilez, Deputy Clerk.

- A077052 Louise Fong
 v.
 American Motor Honda Company et al.
 Cause called and argued by Nikolai Tehin, counsel for appellant, and by
 Roy M. Brisbois and Edward A. Mitchell, counsel for respondents.
 Cause ordered submitted.
- A078146 Robert S. Shotwell
 v.
 Richard Adeline
 Cause called and argued by Theodore Herhold, counsel for appellant, and
 by Richard Adeline, respondent in pro per. Cause ordered submitted.
- A078861 Tremayne Hill
 v.
 Fire Insurance Exchange,
 Cause called and argued by Gene Cain, counsel for appellant, and by
 Thomas F. Poeschl, Jr., counsel for respondent. Cause ordered submitted.
- A076828 Greg Keith
A075911 v.
 Department of Fish and Game
 Cause called and argued by Ellyn S. Levinson, Deputy Attorney General,
 counsel for appellant, and by Randall H. Scarlett, counsel for respondent.
 Cause ordered submitted.

A077325 In re the Marriage of Judith and Frank George

Judith George
v.
Frank George
Cause called and argued by Lyman D. Bedford, counsel for appellant, and
by Verna Adams, counsel for respondent. Cause ordered submitted.

A078199 Chris Rickrode
v.
Utica Mutual Insurance Company
Cause called and argued by Chris Rickrode, appellant in pro per, and by
Neville McGilchrist, counsel for respondent. Cause ordered submitted.

A077608 Mohammad A. Mashhoon
v.
City of Oakland
Cause called and argued by David A. Self, counsel for appellant, and by
Ralph Wheeler, counsel for respondent. Cause ordered submitted.

A075617 G.S. Roe
v.
California Department of Justice et al.
Cause called and argued by Gary Garfinkle, counsel for appellant, and by
Vincent J. Scalley, Jr., Deputy Attorney General, counsel for respondent.
Cause ordered submitted.

A076349 Sophia Marie Regosin-Hodges et al.
v.
McNeil Consumer Products Company
Cause called and argued by Daniel U. Smith, counsel for appellant, and
by Alan J. Lazarus, counsel for respondent. Cause ordered submitted.

A073536
A077966

In re Edward S., a Person Coming Under
the Juvenile Court Law.

Department of Social Services

v.

Donald S. et al.

Cause called and argued by Charles Wood, Deputy County Counsel,
counsel for appellant, and by Carole Greeley, counsel for respondent.
Cause ordered submitted.

A076764

The People

v.

Ronald Dean Davis

Cause called and argued by Christopher Wei, Deputy Attorney General,
counsel for appellant, and by Jonathan D. Soglin, counsel for respondent.
Cause ordered submitted.

Court adjourned at 2:00 p.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, November 20, 1997

DIVISION ONE

A077784--The People v. Christopher Johnson.

The judgment is affirmed. Stein, Acting P.J. We concur: Dossee, J., Swager, J.
(Not for Publication.)

A078239--The People v. Eusebio Gonzalez Salazar.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not
for Publication.)

DIVISION TWO

A075888--The People v. Daniel Anthony Nardello.

The judgment is affirmed. Ruvo, J. We concur: Kline, P.J., Lambden, J. (Not
for Publication.)

DIVISION THREE

A075398--In re the Marriage of Martha Lee Stuart and Terry L. Stuart.

The judgment is affirmed. Parrilli, J. We concur: Corrigan, Actg. P.J., Walker, J.
(Not for Publication.)

Thursday, November 20, 1997 (continued)

A076679--Hoag Memorial Hospital Presbyterian v. Kimberle Belshè, as Director, etc.

The judgment is affirmed. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

DIVISION FOUR

A075989--Moahua Cai v. Doris B. Mak.

The judgment is affirmed. Appellant to bear costs of appeal. Hanlon, P.J. We concur: Pochè, J., Reardon, J. (Not for Publication.)

A077519--The People v. William Gregory Warren.

Judgment affirmed. Reardon, J. We concur: Hanlon, P.J., Pochè, J. (Not for Publication.)

DIVISION FIVE

A076374--In re Clayton T., Jr., a Person Coming Under the Juvenile Court Law.

In re Cymone T., a Person Coming Under the Juvenile Court Law.

In re Cleo T., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

Thursday, November 20, 1997 (continued)

A077113--The People v. Gary Reynaldo Pedrol.

The judgment is reversed with directions to conduct a hearing at which appellant shall have a full opportunity to state his reasons for desiring the appointment of new counsel. The court shall redetermine the application for new counsel in the light of *People v. Marsden, supra*, 2 Cal.3d 118. If the court determines that good cause for appointment of new counsel has been shown, the court shall appoint new counsel and set the case for retrial. If the court determines that good cause has not been shown, it shall reinstate the order appealed from or take other lawful proceedings to give effect to the verdicts heretofore returned. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

FIRST APPELLATE DISTRICT
DIVISION TWO

November 20, 1997

The court convened in its courtroom at 9:30 a.m. at Marathon Plaza, South Tower, 303 Second Street, San Francisco, CA. Present: Kline, P.J., Haerle, J., Ruvolo, J. and I. Cespedes, Deputy Clerk.

A075927 Patrick Baldwin et al.,
v.

Home Savings of America et al.
Cause called and argued by Daniel Furniss, counsel for appellant,
and Thomas Cahill, counsel for respondent. Cause ordered
submitted.

A079784 Eddie Andreini et al.,
v.

Superior Court of San Mateo County.
Maurilio Solorio, Real Party in Interest.
Cause called and argued by Ellen Krakow, counsel for petitioner,
and Daniel Staggs, counsel for real party in interest. Cause ordered
submitted.

At this point Kline, P.J., leaves the bench and Lambden, J., replaces him for the remainder of the cases.

A075659 The People,
v.

Jolly Anne Bikangaga.
Cause called and argued by Neoma Kenwood, counsel for appellant,
and Vance Taylor, certified law student, counsel for respondent.
Cause ordered submitted.

A075340 Jerry A. Neal, Sr.,
v.

Wells Fargo Bank, N.S.A., et al.
Cause called and argued by Jerry Neal, counsel for appellant, and Steven Wasserman and Michael Imfeld (via telephonically), counsel for respondents. Cause ordered submitted.

A075396 National General Insurance Company,
 v.
 Joseph P. Rhode.
Cause called and argued by Jon S. Heim, counsel for appellant, and
Joseph Zamora, counsel for respondent. Cause ordered submitted.

A076773 Lawrence Cain,
 v.
 Pittsburgh Corning Corporation.
Cause called and argued by Bryce Anderson (via telephonically),
counsel for appellant, and John Katerndahl, counsel for respondent.
Cause ordered submitted.

Court adjourned.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, November 21, 1997

DIVISION ONE

A078654--The People v. Vincent Corsetti.

The judgment is affirmed. Dossee, J. We concur: Strankman, P.J., Swager, J.
(Not for Publication.)

A080069--Estate of Molly Fujita Eugenia Anne Bell, et al. v. Karen Anderson.

By The Court: Pursuant to the copy of the voluntary abandonment and dismissal of the above-captioned appeal, that the San Francisco County Superior Court has supplied to this court, the motion filed October 30, 1997 is denied as moot. Strankman, P.J.

DIVISION FOUR

A076826--In re Marriage of Nicholas R. Ditaranto and Kristen N. Ditaranto.

The orders modifying child custody and awarding child support are affirmed. The parties shall bear their own costs on this appeal. Hanlon, P.J. We concur: Pochè, J., Reardon, J. (Not for Publication)

Friday, November 21, 1997 (continued)

A078057--David W. Morris et al v. The Superior Court of Sonoma County, Telesite Corporation et. al., R.P.I.

Let a peremptory writ of mandate issue directing the respondent court to vacate its order granting defendants' motion for a change of venue, and enter a new and different order denying the motion. Hanlon, P.J. We concur: Reardon, J., Saldamando, J.*

*Assigned by the Chairperson of the Judicial Council. (Not for Publication.)

DIVISION FIVE

A076155--The People v. Lonnie David Stringer.

The judgment of conviction is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

A076458--The People v. Derek Kimble.

The judgment is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

A077903--The People v. Dale Francis McCann.

The judgment is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, November 24, 1997

DIVISION THREE

**A071977--The People v. Andrew B. Davi,
A074483--In re Andrew B. Davi, on Habeas Corpus.**

The judgment is affirmed. The petition for writ of habeas corpus is denied.
Parrilli, J. We concur: Corrigan, Actg. P.J., Walker, J. (Not for Publication.)

A074743--The People v. Darren Williams.

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

A074906--Mayne & Company v. M. Helen Fisher.

The judgment is affirmed. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A075715--Hong Truong v. Grand Rent A Car Corporation et al.
Grand Rent A Car Corporation v. Douglas Kanner
Douglas Kanner v. Eugene Boyer III.**

For the foregoing reasons, the judgment of the trial court is affirmed. Costs to respondent. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

Monday, November 24, 1997 (continued)

DIVISION FOUR

A076992--California National Bank v. Pacific International Properties, Inc.

The order of dismissal is affirmed. Pochè, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A077021--Frederick Hoff et al. v. Vacaville Unified School District.

We reverse the judgment of nonsuit. Reardon, J. We concur: Hanlon, P.J., Pochè J. (Certified for Publication.)

A077299--The People v. John Edward Crowley.

The judgment is affirmed. Pochè, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A077498--Kenneth J. Corcoran v. Contra Costa County Employees Retirement Board et al.

The judgment is reversed. The trial court is directed to: 1) vacate its order granting summary judgment in favor of Auditor-Controller Corcoran; 2) grant the motion of the Retirement Board for summary judgment; and 3) enter judgment in favor of the Retirement Board. Pochè, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A078027--The People v. Willie James Gomer.

The judgment is affirmed. Pochè, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, November 25, 1997

DIVISION ONE

A076765--The People v. Allen Ray Adams II.

The judgment of conviction is affirmed. Dossee, J. We concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

A076974--The People v. Joe E. Myers.

The judgment is affirmed. Swager, J. We concur: Strankman, P.J., Dossee, J. (Not for Publication.)

DIVISION TWO

A077935--In re David M., a Person Coming Under the Juvenile Court Law.

The order declaring appellant a ward of the court and committing him to a county institution is affirmed. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

A079261--The People v. Berton Louis Bay.

The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Tuesday, November 25, 1997 (continued)

**A080514--Leotus Armstrong v. The Superior Court of Contra Costa County,
The People of the State of California, R.P.I.**

The petition for writ of mandate/stay is denied. Kline, P.J.

DIVISION THREE

**A073345 & A075330--Robert Schumacher v. Jeanette Freeman et al., Grubb
& Ellis et al.**

Order Modifying Opinion And Denying Rehearing; By The Court: It is ordered that the opinion filed herein on October 31, 1997, be modified as follows: (See Order) The petition for rehearing is denied. There is no change in the judgment. Phelan, P.J. (Not for Publication.)

A077020--The People v. Ranger Insurance Company.

Affirmed. Costs are awarded to respondent. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

A077896--The People v. Amilliano Z. Ramos.

Consequently, the judgment is affirmed. Parrilli, J. We concur: Corrigan, Actg. P.J., Walker, J. (Not for Publication.)

A078011--The People v. Richard Lee Givens.

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

A078129--In re Tristan Q., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

Tuesday, November 25, 1997 (continued)

DIVISION FOUR

A073696--The People v. Gary Michael Griffin.

The judgment is modified in the following particulars: (1) by striking one section 667(a) enhancement; (2) by substituting the number "10" for the number "15" under the column for total enhancements; and (3) by deleting the number "90" where it provides "Total SP 90-Life" and substituting therefore the number "85". As modified, the judgment is affirmed. The Clerk of the San Francisco Superior Court is directed to prepare an amended abstract of judgment reflecting these modification and to forward a certified copy of the amended abstract to the Department of Corrections. Pochè, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A077324--The People v. Brenda Lindschmidt.

The judgment is affirmed. Hanlon, P.J. We concur: Pochè, J., Reardon, J. (Not for Publication.)

A077418--Phillip W. Ward et al. v. Richard Lawson.

The judgment is affirmed. Defendant shall recover his costs of appeal. Pochè, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A077792--The People v. Sheldon Dean Smith.

The judgment is affirmed. Reardon, J. We concur: Hanlon, P.J., Pochè, J. (Not for Publication.)

DIVISION FIVE

A076863--James Clifford Aaberg v. State Farm Fire And Casualty Company.

The Court: This modification does not affect the judgment. Peterson, P.J. (Not for Publication.)

Tuesday, November 25, 1997

A077657--In re Robert Earl Davis on Habeas Corpus.

The petition for writ of habeas corpus is granted. The 12 counts for which the statute of limitations has expired are dismissed. The Municipal Court of Sonoma County is hereby ordered to enter a dismissal of those 12 counts, and to proceed only on the single remaining count for which the statute of limitations has not expired. The stay of proceedings heretofore imposed shall dissolve upon the finality of this opinion as to this court. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

A078886--The People v. Caryl Jackson.

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE
TUESDAY, NOVEMBER 25, 1997

Court convened at 9:00 a.m. in its courtroom at Marathon Plaza,
South Tower Fourth Floor, 303 Second Street, San Francisco, Ca.
Present: Phelan P.J., Corrigan J., Parrilli J., and C. Turner, Deputy
Clerk.

A075538 California Custom Cabinetry,
 v.
 Shames Construction Company, Inc.,
 Cause called and argued by Socrates Mamakos, counsel for appellant, and
 Robert Field counsel for respondent. Cause ordered submitted.

A073654 John Rivera,
 v.
 Keyston Bros., et al
 Cause called and argued by Andrew Chang, counsel for appellant, and
 B.E. Bergersen, counsel for respondents. Cause ordered submitted.

Justice Walker took is place on the bench. Justice Phelan announced Justice
Corrigan was not participating on the following case.

A071528 The Application Group, Inc., et al
 v.
 The Hunter Group, Inc., et al
 Cause called and argued by Charles Birenbaum, counsel for appellants, and
 Paul Beach, counsel for respondents. Cause ordered submitted

Justice Phelan announced his participation on the following case and advised
counsel that he would not be available to hear the case. Justice Phelan stated all
of our proceedings are recorded for the courts' review and counsel stipulated and
waived Justice Phelan's presence.

Justice Phelan left the bench.

A078481 First Presbyterian Church of Berkeley,
v.
City of Berkeley, et al.,
Cause called and argued by Zach Cowan, counsel for appellants, and
Thomas Ho'okano, counsel for respondent. Cause ordered submitted.

A077946 Ross Stores, Inc.,
v.
LXP I Inc.,
Cause called and argued by Richard Simon, counsel for appellant, and
Glenn Zwang, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, November 26, 1997

DIVISION TWO

A073141--Blue Boar Inn, Inc. et al. v. Great American Insurance Companies et al.

The judgment is affirmed. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A075816--The People v. Frank Charles Vanloock.

The judgment is modified to stay the concurrent life sentence for torture; as modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy thereof to the Department of Corrections. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

A077387--The People v. Randal Allen Hammack.

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

A078656--The People v. David A. Cordero.

The judgment is affirmed. Ruvolo, J. We concur: Haerle, Acting, P.J., Lambden, J. (Not for Publication.)

A080743--KGO/KSFO v. The Superior Court of San Mateo County, Sharbanoo Shayesteh, et al., R.P.I.

By The Court: The petition for writ of mandate/prohibition is denied. Kline, P.J.

Wednesday, November 26, 1997 (continued)

A080777--In re Shawn D. O'Guinn, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Kline, P.J.

A080782--Sonoma Valley Unified School District v. The Superior Court of Sonoma County, J. A. Boyd & Associates, R.P.I.

By The Court: The petition for writ of mandate is denied without prejudice as premature in that no written order has been signed by the trial court in compliance with Code of Civil Procedure section 437c, subdivision (g). Kline, P.J.

A080795--Norman Lew, et al v. The Superior Court of San Francisco County, Christina Siu, et al., R.P.I.

By The Court: The petition for writ of mandate/prohibition/stay is denied. Kline, P.J.

Wednesday, November 26, 1997 (continued)

DIVISION THREE

A074465/A076517--Allen Schluep et al. v. Asbestos Claims Management Corporation et al.

We affirm the judgment of the trial court. Costs are awarded to respondents. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

A076525--The People v. Warren K. Charles.

Affirmed. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

A077946--Ross Stores, Inc. v. LXP I, L.P.

Ross is entitled to costs on appeal. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

A078108--In re Douglas de Soto, on Habeas Corpus.

Accordingly, we deny the petition for writ of habeas corpus. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

DIVISION FIVE

A062766--The People v. Jerry Ledet et al.

The judgment of murder and conspiracy to murder is reversed as to Jerry. The judgments are otherwise affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

Wednesday, November 26, 1997 (continued)

A073292--Kay Delaney v. Calvin Baker, Sr., et al.

We reverse the award of special damages and in all other respects affirm the judgment. Each party to bear its own costs on appeal. Jones, J. We concur: Peterson, P.J., Haning, J. (Certified for Partial Publication.)

A075804--The People v. Alan Huey.

The superior court is ordered to prepare and to forward to the Department of Corrections an amended abstract of judgment awarding appellant 330 days actual credit plus 164 days conduct credit, for a total of 494 days of presentence credit. In all other respects the judgment is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

A076331--Jerome R. Singer et al. v. Regents of the University of California.

The order granting JNOV is reversed, and the jury's verdict is ordered reinstated. The trial court's order of summary adjudication regarding impounding of royalties is reversed, and the matter is remanded with instructions to grant appellant's cross-motion on that issue. The trial court's ruling regarding the marking issue is affirmed. Appellants shall recover their costs on appeal. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

A076498--The People v. Timothy Patrick Ridgeway.

The order that appellant reimburse legal costs of \$1,860 is reversed. In all other respects the judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)